

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

BERNADETTE ROLEN,
AS MOTHER AND AS
ADMINISTRATRIX OF THE
ESTATE OF DANIEL FICKER,
et al.

Plaintiffs,

v.

CITY OF CLEVELAND,
et al.,

Defendants.

) CASE NO.:

)

) JUDGE:

)

) **NOTICE OF REMOVAL**

) **FILED BY DEFENDANT**

) **CITY OF CLEVELAND**

)

)

)

TO THE JUDGES OF THE UNITED STATES DISTRICT
COURT FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

Defendant City of Cleveland respectfully submits this Petition for Removal of this action to the United States District Court for the Northern District of Ohio, Eastern Division.

1. On or about July 3, 2012, Plaintiffs filed a civil action in the Cuyahoga County Court of Common Pleas, Case No. CV-12-786264, titled “*Bernadette Rolen, as Mother and as Administratrix of the Estate of Daniel Ficker, et al v. City of Cleveland, et al.*,” demanding judgment against the City of Cleveland and Cleveland Police Officers Matthew Craska and David Mindek. Plaintiffs’ claims include the assertion that the Defendants violated Plaintiffs’ decedent’s Fourth and Fourteenth Amendment rights (Complaint at ¶¶ 31-34). Plaintiffs request relief against the Defendants under 42 U.S.C. § 1983, as well upon certain state-law claims.

2. Title 28 U.S.C. §§ 1343(a)(3) and 1331 provide this Court with original jurisdiction over Plaintiffs’ claims brought under 42 U.S.C. § 1983. Supplemental jurisdiction over the remaining state law claims is authorized under 28 U.S.C. § 1367. Because this Court has

original jurisdiction over claims raised in the Complaint, removal is appropriate under 28 U.S.C. § 1441(a) and (b).

3. Defendant City of Cleveland received a copy of the Complaint on or about July 23, 2012. According to the docket of the Cuyahoga County Common Pleas Court, Defendants Matthew Craska and David Mindek have not been served with Plaintiffs' Summons and Complaint.

4. Removal is being timely accomplished within the thirty (30) day time period allowed by law. The entirety of the pleadings to date consists of the Complaint, the Summons for each of the Defendants, and the Cuyahoga County Common Pleas Court Designation Form. (Exhibit A).

5. A copy of Defendant City of Cleveland's Petition for Removal and a Notice of Removal will be filed with the Clerk of the Court of Common Pleas of Cuyahoga County Ohio as required by 28 U.S.C. § 1446(d).

WHEREFORE, Defendant City of Cleveland prays that this case, presently pending in the Court of Common Pleas, Cuyahoga County, Ohio, be removed to this Court and proceed according to law.

Respectfully submitted,

BARBARA LANGHENRY (0038838)
Interim Director of Law, City of Cleveland

s/ Shawn M. Mallamad
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CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing was filed electronically on July 24, 2012. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

A copy of this Removal Petition was also sent by regular mail, postage prepaid, on July 24, 2012, to the following:

Gordon S. Friedman, Esq.
Terry H. Gilbert, Esq.
Friedman and Gilbert
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Cleveland, OH 44113-1752
Counsel for Plaintiffs

s/ Shawn M. Mallamad
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